

Testimony of

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Regarding

Visa Waiver Pilot Program

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Thank you very much, Mr. Chairman, Members of the Subcommittee. I welcome the opportunity to testify on the Visa Waiver Pilot Program.

**Development and Expansion of the Visa Waiver Pilot Program and Expansion of the Visa Waiver Pilot Program**

In 1986, Immigration Reform and Control Act (IRCA) incorporated the Visa Waiver Pilot Program into the Immigration and Nationality Act. The Program's purpose was twofold: (1) to facilitate low-risk travel to the United States and (2) to allow the Secretary of State to conserve and reallocate consular resources. Prior to implementation, the statute required the Attorney General to develop an automated system that would properly track the arrival and departure of nonimmigrants.

Under the current Program, visitors for pleasure or business from countries designated by the Attorney General, in consultation with the Secretary of State, who meet the express statutory criteria, may enter the United States without a visa for a period of ninety days. They are required to waive in writing any right to review of an immigration officer's determination that they are inadmissible or removable from the United States. They may only contest removal on the basis of either an application for asylum or an application for withholding of removal under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. They are also required, if arriving by air or sea, to travel on a transportation line that is signatory to an agreement with the Immigration and Naturalization Service permitting the line to transport passengers under the Program, and they are required to possess a round-trip or onward ticket.

The four criteria for inclusion of countries in the Program are

that they offer reciprocal privileges to United States citizens;

that they have had a nonimmigrant visa refusal rate of less than 3 percent for the previous year;

that they certify that they issue, or are in the process of developing, a machine-readable passport; and

that the Attorney General makes a determination that inclusion of the country in the Program does not pose a law enforcement risk to the United States.

The Act further provides that the Attorney General, in consultation with the Secretary of State, may refrain from including any country in the Program or remove a country for any reason, including national security.

Applicants for admission under the Program must complete a form I-94W, answering questions regarding their admissibility to the United States and executing the waiver noted above.

Immigration officers, who are aware that these individuals have not been screened through a visa process, must examine them. Officers check the names and passport numbers of these applicants against the lookout database. Officers may also open and pursue any appropriate line of inquiry to make a determination concerning the individual's admissibility.

Between 1988 and 2000, the Program grew from 1 to 29 participating countries. In fiscal year 1998, there were over 17 million arrivals under the Program.

### **The Existing Program**

The Visa Waiver Pilot Program has grown tremendously and has proven extremely popular with nationals of visa waiver countries and with the travel and tourism industry. The Program has made it easier to travel to the United States. The Program has also produced new challenges for the Immigration and Naturalization Service. Although the Program has significantly reduced consular

workload and facilitated travel to the United States, it has increased the burden placed on inspectors at the ports-of-entry.

Since I last testified on the Program in June 1997, we have improved our lost and stolen passport recording system. We have also expanded our port-of-entry lookout queries in an effort to intercept more passengers traveling on fraudulent passports. Notwithstanding such improvements, the Visa Waiver Pilot Program is attractive to prospective illegal entrants for the same reasons it is for the legitimate traveler. This is a matter of some concern.

Application for admission into the United States under the Visa Waiver Pilot Program can be made with nothing more than a passport; there is no need for a visa or the consular screening that would accompany visa issuance. Consequently, fraudulent document vendors and alien smugglers have targeted the passports of visa waiver countries. As the Department of State has increased the fraud resistance of the U.S. nonimmigrant visa, so too has the attractiveness of using a visa waiver country passport increased for third country nationals seeking illegal entry into the United States.

The attraction of smugglers, document vendors, and illegal immigrants to visa waiver country passports is encouraged by several factors, including limited security features present in some passports, the existence of multiple passport-issuing authorities, and weak controls to protect issuance procedures in some visa waiver countries. In the latter case, access to blank visa waiver country passports eliminates the need to eradicate existing biographic information, thereby simplifying the document vendor's job and reducing the risk of detection. This presents serious security and law enforcement concerns.

The vast majority of visa waiver program visitors enter the United States through airports. Between 1992 and 1999, while international airport traffic increased by 43 percent and staffing by 45 percent, the number of our enforcement actions increased by 135 percent. By comparison, land border traffic is up 4 percent, staffing up 74 percent, and enforcement up 46 percent over the same

period.

Let me take a moment to update you on what we have been doing to address the issue of overstays. When I last testified before this subcommittee, I stated that we hoped to implement improvements to the Nonimmigrant Information System (NIIS) to capture nonimmigrant overstay numbers. I regret to report that tracking nonimmigrant overstays has continued to pose difficulties. Since 1997, we have taken significant steps to improve NIIS, including the establishment of an oversight and maintenance group. We also produced an informational booklet for carriers that stresses the importance of completing arrival and departure forms and forwarding them to INS. Additionally, we have been working with our contractors to reduce the number of data-entry errors. However, these measures have not proven sufficient to generate statistically valid overstay data.

We are therefore continuing our efforts to deploy a new system, the Arrival Departure Information System (ADIS), to address the challenge of matching arrival and departure records. Since 1997, we have been field-testing an Automated I-94 System that will capture data for use in ADIS. Between May 1997 and December 1999, we collected 204,631 automated Form I-94 departure records at the four participating U.S. airports. Of those records, we matched 99.1 percent of the automated departure records collected to the corresponding arrival records, of which ninety percent were entering under the Visa Waiver Pilot Program. We anticipate that the collection of reliable, complete arrival/departure data will become increasingly possible as this system expands and as we gain the cooperation and participation of airlines.

Mr. Chairman, the INS supports a renewal of the Visa Waiver Pilot Program, but remains committed to finding ways to improve the program that build upon the lessons learned from the current pilot program. We believe that, working together, action can be taken to address weaknesses in dependent processes such as foreign travel document security and in our own

border security activities including ports of entry, to ensure the integrity of this program. We will continue to work closely with the Executive Office of National Security and the Department of State to improve the overall function of the Visa Waiver Pilot Program.

This concludes my testimony and I will be happy to respond to any questions.